IN THE UNITED STATES PATENT AND TRADEMARK OFFICE ? 7 2008

In Re the Application of:

LOWTHER

Serial No.:

10/613,777

Filing Date:

July 2, 2003

Atty. File No.: 7066-1-CIP3-CON

For:

"DEVICE AND METHOD FOR

TRANSFERRING FORCE TO A

TARGETED OBJECT"

Mail Stop Petitions Commissioner for Patents P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

PETITION FOR REFUND OF PETITION TO REVIVE FEE CHARGED TO DEPOSIT ACCOUNT NO. 19-1970

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MAR 2 4 2006

Typed or printed name of person signing this certification:

ring K. Aschulmaner

Applicant hereby petitions the Director under Rule 1.181 and Rule 1.264 for a refund in the amount of \$750.00 that was charged to Deposit Account No. 19-1970 for a Petition to Revive. Enclosed herewith is a Decision on the Petition filed September 28, 2005, to withdraw the holding of abandonment of the above-identified application. The Petition to Revive was granted under Rule 1.137(b). However, the large entity Petition fee in the amount of \$1,500.00 was charged to Deposit Account No. 19-1970. Applicant is a small entity, and small entity was originally established in the application. Enclosed herewith is a copy of the Filing Receipt for the above application showing the small entity status.

Therefore, it is respectfully requested that the Director refund \$750.00 to Deposit Account No. 19-1970, which is the excess of that required for a Petition to Revive an Unintentionally Abandoned Application (Rule 1.17(m)) for small entity.

Respectfully submitted.

SHERIDAN ROSS R.C.

Brent P. Johnson Registration No. 38,031 1560 Broadway, Suite 1200

Denver, Colorado 80202-5141

(303) 863-9700

Date: $\frac{3}{17}/0^{6}$

PAGE 2/6 * RCVD AT 3/17/2006 1:57:56 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/21 * DNIS:2738300 * CSID:3038630229 * DURATION (mm-ss):02-16

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BRENT P. JOHNSON SHERIDAN ROSS P.C. SUITE 1200 1560 BROADWAY DENVER CO 80202-5141 SHERIDAN, ROBB

DEC 2 3 2005

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MAR 2 4 2006

In re Application of John K. Lowther Application No. 10/613,777 Filed: February 2, 2004

Attorney Docket No: 7066-1-CIP3-CON

OFFICE OF PETITIONS PETITION

This is a decision on the petition filed September 28, 2005, to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative, to revive the above identified application under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is <u>DISMISSED</u>. The petition to revive under 37 CFR 1.137(b) is <u>GRANTED</u>.

The application was held abandoned on November 2, 2004, for failure to file a timely response to a restriction requirement September 29, 2004. The office action set a one month shortened statutory period. Accordingly, a Notice of Abandonment was mailed on June 3, 2005.

In the petition to withdraw the holding of abandonment under 37 CFR 1.181, petitioner asserts that in a telephone conversation between petitioner and the Examiner responsible for examining this application, the Examiner agreed to make the necessary

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the datay in reply was unintentional, a petition may be filed to revive an abandoned application or a tapsed patent pursuant to 37 CFR 1.137(b). A <u>grantable</u> petition filed under the provisions of 37 CFR 1.137(b) <u>must</u> be accompanied by:

⁽¹⁾ the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be mat by the filling of a continuing application. In an application or patent, abandoned or tapsed for failure to pay the issue see or any portion thereof, the required reply must be the payment of the issue see or any outstanding batance thereof.

⁽²⁾ the patition fee as set forth in 37 CFR 1.17(m):

⁽³⁾ a statement that the entire delay in filing the required repty from the due date for the reply until the filing of a grantable petition pursuent to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

⁽⁴⁾ any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d)).

Application No. 10/613,777

Page 2

elections and issue a first office action. Unfortunately however, the requirement for responding to communications mailed from the USPTO must be in writing as is required by 37 CFR 1.2. Petitioners are advised that in the absence of the restriction requirement not being withdrawn by the USPTO, then by law a response was required. The failure to file a response caused the application to become abandoned.

Applicants are not afforded an opportunity to withhold a written response to an office communication even based on a conversation and reliance upon that conversation with an office employee. In view thereof, the holding of abandonment will not be withdrawn.

With respect to the petition to revive, the petition fee in the amount of \$1500.00 has been charged to deposit account no. 19-1970.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to Technology Center 3723 for appropriate action on the election filed September 28, 2005.

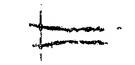
Telephone inquiries concerning this matter may be directed to the undersigned Retitions Attorney at (571) 272-3212.

Patricia Faison-Balil Senior Petitions Attorney Office of Petitions Title

Slide hammer

Preliminary Class

173



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OFFICE OF PETITIONS

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING" LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filling date of the application. If 6 months has lapsed from the filling date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

PALM INTRANET

Day: Wednesday

Date: 3/29/2006 Time: 12:12:55

IFW IMAGE

Application Number Information

Application Number: 10/613777

Assignments

Filing or 371(c) Date: 02/02/2004

Effective Date: 07/02/2003

Application Received: 07/07/2003

Pat. Num./Pub. Num: /20040108121

Issue Date: 00/00/0000

Attorney Docket Number: 7066-1-CIP3-

CON

Date of Abandonment: 00/00/0000

Lost Case: NO

Third Level Review: NO

Unmatched Petition: NO

L&R Code: Secrecy Code:1

Group Art Unit: 3723

Interference Number:

Class/Subclass: 081/027.000

Secrecy Order: NO

Examiner Number: 77593 / SHAKERI, HADI

Status: 71 /RESPONSE TO NON-FINAL OFFICE ACTION ENTERED Status Date: 03/22/2006

AND FORWARDED TO EXAMINER

Confirmation Number: 6975

Oral Hearing: NO

Title of Invention: SLIDE HAMMER

Bar Code PALM	Location Location	Date Charge to Loc	Charge to Name Em	ployee Name Loca	ation
Appln Contents	Petition Info	Atty/Agent Info	Continuity Data	Foreign Data	_inv
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SHERIDAN ROSS

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PATENTS TRADÉMARKS COLAMORIE

KERMITH F. ROSS 1910-1986

OF COUNSEL PHILIP H. SHERIDAN DAVID F. ZINGER SCOTT R. BIALECKI

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MAR 2 4 2006

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TROHNICAL SPECIALISTS DENNIS J. DUPRAY, Ph.D. ANGELA DALLAS SEBOR, Ph.D, MATTHEW R PLLSWORTH

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7066-1-CIP3-CON

Serial No.:

10/613,777

Filed:

July 2, 2003

Entitled:

DEVICE AND METHOD FOR TRANSFERRING FORCE TO A TARGETED

OBJECT

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CFC. Reversed = 03/29/06

IN THE UNITED STATES DESIGNATED OFFICE (DO/US)

In Re the Application of:

LOWTHER

Serial No.:

10/613,777

Filing Date:

July 2, 2003

Atty. File No.: 7066-1-CIP3-CON

For:

"DEVICE AND METHOD FOR

TRANSFERRING FORCE TO A

TARGETED OBJECT"

Mail Stop Petitions Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

LETTER TO EXAMINER RE: NOTICE OF ABANDONMENT AND ALTERNATIVELY

PETITION TO REVIVE UNINTENTIONALLY ABANDONED

APPLICATION PURSUANT TO 37 C.F.R. §

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 ON 9/23/

SHERIDAN ROSS P.C.

A Notice of Abandonment was received in connection with the above application, dated June 3, 2005. The Notice of Abandonment was sent in response to the alleged failure to timely file a proper reply to the Office Action mailed on September 29, 2004.

On October 19, 2004, Applicant by telephone message with the Examiner requested cancellation of apparatus claims 18-24, leaving the method claims in the application and requested withdrawal of the restriction requirement. On October 21, 2004, the Applicant's attorney had a telephone conversation with the Examiner to confirm the earlier instructions left in the message of October 19, 2004. It was Applicant's understanding after the telephone conversation with the Examiner that he would acknowledge election without traverse of the method claims, withdraw the apparatus claims, and issue a first Office Action. Therefore, the Notice of abandonment should be withdrawn.

09/29/2005 ZJUHAR1 00000046 10613777

01 FC:1464

130.00 UP

justment Date: 04/13/2006 SDIRET 10613777

1500.00 CR 01 FC:1453

04/13/2006 SDIRETA1 00000022 191970 10613777 .

01 FC:2453

750.00 DA

In the alternative, this is a petition to revive the application wherein the application became unintentionally abandoned after March 29, 2005. The entire delay in replying to the Office letter was unintentional. Attached hereto is a Response to the Restriction Requirement, setting forth the same information set forth above.

Enclosed herein is a check in the amount of \$130.00 for this Petition. If any further fees are due, please consider this petition authorization to debit such fees to Deposit Account No. 19-1970.

We very much appreciate your consideration of this Petition. If further information is required in order to restore the application to pending status, please contact the undersigned attorney.

Respectfully submitted,

SHERIDAN ROSS P.C.

Ву:__

Brent P. Johnson

Registration No. 38,031 1560 Broadway, Suite 1200

Denver, Colorado 80202-5141

(303) 863-9700

Data

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